



## Whistleblowing Policy

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## 1 What is whistleblowing?

1.1 Whistleblowing is a way for employees and 'other Council workers', plus staff working in partnership with the Council, to raise a genuine concern about danger or illegality, usually because it threatens others (e.g. customers, or the public). Persons able to raise a concern under this policy include, but are not limited to:

- employees;
- councillors;
- agency staff;
- contractors;
- suppliers;
- apprentices and trainees;
- volunteers;
- any persons working under the supervision and direction of contractors, subcontractors and suppliers;
- persons acquiring information on breaches in a work-based relationship which has since ended; and
- persons whose work-based relationship is yet to begin in cases where information on breaches has been acquired during the recruitment process or other pre-contractual negotiations.

1.2 The Council is committed to the highest possible standards of openness, propriety and integrity. In line with this commitment, employees and other Council workers with serious concerns are encouraged to come forward and voice those concerns.

1.3 Whistleblowing is the common name given to statutory law. This Whistleblowing Policy has been prepared in response to the Employment Rights Act 1996 (ERA) and the Public Interest Disclosure Act 1998 (PIDA) (as amended by the Enterprise and Regulatory Reform Act 2013), the British Standards Institution PAS 1998:2008 (Code of Practice), and the EU Whistleblowing Directive April 2019 . These documents set out a framework for raising genuine concerns and providing guarantees of full protection to employees and other Council workers who raise such issues.

1.4 This policy is intended to cover major concerns that may fall outside the scope of other procedures. The following are examples of issues that may be raised and are not intended to be an exhaustive list:

- Health and safety risks, including risks to the public as well as other employees
- Sexual or physical abuse of both employees and clients
- Damage to the environment
- Unauthorised use of public funds
- Theft or abuse of Council property
- Possible fraud and corruption
- Other unethical conduct
- Abuse of children and vulnerable adults
- Actions which are intended to conceal any of the above.

1.5 The Council will provide protection under the ERA and PIDA for any **disclosure** of information which, in the reasonable belief of the employee or other Council worker making the disclosure, intends to show one or more of the following:

- a. A criminal offence that has been, is being, or is likely to be committed;
- b. A person who has failed, or is failing or is likely to fail to comply with a legal obligation to which s/he is subject;
- c. A miscarriage of justice that has occurred, is occurring or is likely to occur;
- d. The health or safety of any individual that has been, is being or is likely to be endangered;
- e. That the environment has been, is being, or is likely to be endangered.

1.6 Any disclosure that does not concern these matters falls outside the scope of the Acts.

1.7 To be a **qualified disclosure**, the following additional conditions must also be fulfilled:

- a. The person making the disclosure must be an employee or other Council worker as defined in paragraph 1.1;
- b. The disclosure must be made lawfully and without breaching legal professional privilege;
- c. It must be made in the public interest;
- d. The person making the disclosure must not act maliciously or make false allegations; and
- e. The person making the disclosure must not seek any personal gain for it (where a disclosure has been made to a third party) such as financial payments, gifts or any other benefit or advantage.

1.8 This policy is aimed to complement and does not replace the Council's complaints procedure.

## **2 Differences between whistleblowing and grievances**

2.1 There are existing procedures in place to enable employees and other Council workers to lodge a grievance relating to their employment. Whistleblowing can be undertaken where an employee or other Council worker has a concern about danger or illegality, usually because it threatens others (e.g. customers, or the public). A grievance or private complaint is, by contrast, a dispute about the employee's own employment position and would normally have no additional public interest dimension.

## **3 What is the Council's approach to whistleblowers?**

3.1 The Council is committed to protecting whistleblowers and to learn lessons from any events.

3.2 This policy aims to:

- a. Provide avenues for employees and other Council workers to raise serious concerns and report unsuitable and inappropriate behaviour (e.g. under the Safeguarding Children Policy, Bribery Policy and Safeguarding Vulnerable Adults Policy);
- b. Question and act upon concerns;
- c. Receive feedback on any action taken;
- d. Take the matter further if they are dissatisfied with the Council's response; and
- e. Reassure that they will be protected from victimisation for whistleblowing in the public interest.

## **4 How to raise a concern**

4.1 Initially, a concern should be raised with an immediate manager or supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved

in the malpractice.

- 4.2 If it is believed that management is involved, an approach to one of those listed in the table at 4.7 below is recommended, each of whom has been trained in handling whistleblowing cases.
- 4.3 Employees and other Council workers are encouraged to express their concern at the earliest opportunity so that timely action can be taken.
- 4.4 The Council has a Whistleblowing Hotline available, which is managed in a secure and confidential environment by the Head of Internal Audit. The **Whistleblowing Hotline number is 01394 444222**. A voicemail message greets all calls and you are requested to leave a message and contact details.
- 4.5 Concerns may also be raised in writing, or on request, in person by way of a meeting with the Head of Internal Audit.
- 4.6 Although employees and other Council workers are not expected to investigate the matter or to prove that the concern is well founded, they should be able to demonstrate to the person contacted that there are reasonable grounds for the concern.
- 4.7 If the employee or other Council worker needs advice and guidance on how matters of concern may be raised or pursued, the following Officers can be contacted:

OFFICER	EMAIL	TELEPHONE
Chief Executive	Stephen.baker@eastsuffolk.gov.uk	01502 523210
Monitoring Officer	Hilary.slater@eastsuffolk.gov.uk	01394 444336
Head of Internal Audit	Siobhan.martin@eastsuffolk.gov.uk	01394 444254
Human Resources Manager	Carol.lower@eastsuffolk.gov.uk	01502 523228

- 4.8 Employees and other Council workers may raise their concern through their trade union or professional association.
- 4.9 If employees and other Council workers (see section 1.1) would prefer to speak with someone outside of the Council, advice and guidance can be obtained from an appropriate contact on the **Whistleblowing: List of prescribed people and bodies lists** rather than the Council. The list is available in this link: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

In addition, you may choose to contact any of the following:

(a) Member of Parliament

A worker or non-worker can contact a member of the House of Commons. Contact details for any Member of Parliament are available in this link: <http://www.parliament.uk/mps-lords-and-offices/>

(b) Local Government Ombudsman

The Local Government Ombudsman will receive complaints of alleged maladministration against the Council. The contact details are on the LGO website: [www.lgo.org.uk](http://www.lgo.org.uk)

(c) The Council's External Auditor

The External auditors (Ernst & Young) are appointed to address any concerns as to alleged financial irregularity, unlawful expenditure, or loss to the Council. The details of the Council's external auditors can be found on our website.

(d) Protect (previously called Public Concern at Work):

This is a whistleblowing charity, which helps to inform public policy and seek legislative change. They also provide advice to those with whistleblowing dilemmas at work and supports organisations with their whistleblowing arrangements. Tel: 020 3117 2520 or <https://protect-advice.org.uk/>

## **5 How the Council will respond**

- 5.1 When leaving a voicemail message on the Whistleblowing Hotline, the Head of Internal Audit, who monitors the Hotline, will normally respond to the caller within two working days (excluding weekends).
- 5.2 Disclosures to the line manager or Human Resource Manager etc. must be reported to the Head of Internal Audit who maintains a confidential log of such events.
- 5.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest. (Note: the disclosure does not have to be in the public interest for the protection to be afforded). Concerns raised or allegations made which fall within the scope of other specific procedures (for example harassment or discrimination issues) will normally be referred for consideration under those procedures.
- 5.4 Following initial investigations by an impartial person the Council will respond to the concern, as appropriate. The action taken by the Council will depend on the nature of the concern. The matters raised may:
  - a. Be investigated by Internal Audit;
  - b. Be referred to the police;
  - c. Be referred to the external auditor; or
  - d. Form the subject of an independent inquiry.
- 5.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 5.6 All concerns received will be acknowledged in writing or email, where appropriate, within seven days. Wherever possible the acknowledgement will:
  - a. Indicate how the Council proposes to deal with the matter. (Where appropriate follow-up is still being determined, provide an estimate of when the reporting person can expect this feedback);
  - b. Give an estimate of how long it will take to provide a final response (this should not exceed three months, however complex cases may require a longer timescale);
  - c. Advise whether any initial enquiries have been made;
  - d. Advise whether further investigations will take place, and if not, explain this decision; and

e. Indicate how the Council will proceed where the informant has chosen to remain anonymous.

- 5.7 When any meeting is arranged with an employee or other Council worker, they have the right, if they so wish, to be accompanied by a trade union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates. The measures for the protection of whistleblowers set out in Section 6 below shall also apply, where relevant, to facilitators and third persons who are connected with the reporting person.
- 5.8 The Council will take steps to minimise any difficulties which employees and other Council workers may experience as a result of raising a concern. For instance, if employees and other Council workers are required to give evidence in criminal or disciplinary proceedings, advice about the procedure will be given.
- 5.9 The Investigating Officer will detail the outcome of the investigation in a written report. The report will outline the findings of the investigations and reasons for the judgement made. This report will be presented to the Chief Executive to decide the final action. In the event of management being involved in malpractice, the report will be presented to the Head of Internal Audit.
- 5.10 The Council recognises that employees and other Council workers need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, employees and other Council workers raising a concern will receive information about the outcome of any investigation.
- 5.11 If appropriate, a copy of the outcome will be passed to Internal Audit to review the relevant internal procedures.
- 5.12 If the informant is not satisfied that the concern has been properly dealt with by the Investigating Officer, they have the right to raise it in confidence with one of the designated persons stated in Section 4.7 above.
- 5.13 The Council hopes that employees and other Council workers will be satisfied with any action taken as a result of raising a concern. If they are not, and if they feel it is right to take the matter outside the Council, the possible contact points are detailed in 4.9 above.
- 5.14 If the informant does take the matter outside the Council, they should be careful not to disclose confidential information, and ensure that they comply with the requirements of the Public Interest Disclosure Act 1998 so that they do not lose the protection of the Act against dismissal or other detriment.

## **6 Protecting whistleblowers**

### **6.1 Harassment or Victimisation**

- 6.1.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation of the whistleblower and will take action in accordance with the ERA and PIDA to protect employees and other Council workers when a concern is raised in the public interest. This will include protection from retaliation in the form of dismissal; suspension; demotion; withholding of promotion or training; negative performance reviews; transfer of duties;

imposition of any disciplinary measures, intimidation, harassment or discrimination; disadvantageous or unfair treatment; failure to convert a temporary employment contract into a permanent one, where the worker had legitimate expectations that he or she would be offered permanent employment; failure to renew, or early termination of a temporary employment contract; harm, including to the person's reputation, or financial loss, including loss of business and loss of income; early termination or cancellation of a contract for goods or services; cancellation of a licence or permit; or psychiatric or medical referrals.

6.1.2 Individuals making a disclosure will be informed of the Officer investigating their concerns. The appointed Investigating Officer will regularly liaise with the individual concerned to ensure they are safeguarded from any reprisals.

6.1.3 However, this does not mean that where employees and other Council workers who whistleblow are already the subject of disciplinary or other employment related procedures, that the said procedures will be halted.

## **6.2 Confidentiality**

6.2.1 The Council will do its best to protect the identity of employees and other Council workers who whistleblow and who do not want their name to be disclosed. However, in some circumstances the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

6.2.2 Equally, when raising a concern, employees and other Council workers should consider confidentiality and the rights of any other person involved until an investigation of the concern has been concluded.

## **6.3 Anonymous Disclosure**

6.3.1 The policy encourages employees and other Council workers to put their name to any concern raised or allegation made. Protection provided under the ERA and PIDA cannot be applied to an unnamed individual. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Head of Internal Audit.

6.3.2 In exercising the discretion, the factors to be taken into account would include:

- a. The seriousness of the issues raised;
- b. The credibility of the concern; and
- c. The likelihood of confirming the allegation from attributable sources.

## **6.4 Incorrect use of the Whistleblowing Policy**

6.4.1 The Whistleblowing Policy has been written to reassure the employees and other Council workers that there is a safe alternative to silence. No action will be taken against employees and other Council workers who raise concerns or make allegations in the public interest but which are not confirmed by the investigation.

6.4.2 Disciplinary action may, however, be taken in cases where malicious or vexatious allegations are raised. The policy cannot be used to secure or negotiate immunity from any disciplinary action.

## **7 The Responsible Officer**

- 7.1 The Head of Internal Audit has overall responsibility for the administration of this policy.
- 7.2 The Responsible Officer will maintain a record of concerns raised and the outcomes in a format which does not endanger confidentiality.
- 7.3 The Responsible Officer will undertake a regular review and evaluation of the effectiveness of this Policy, the results of which will be included in the Internal Audit Annual Report.